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20D.200.10 Transfer of Development Rights (TDR) Program.

20D.200.10-010      Purpose.

The City of Redmond has a transfer of development rights procedure available for the protection of areas with significant hazards and sensitive areas.

The transfer of development rights from one property to another is intended to maintain and protect these areas while giving compensating development rights. TDRs are also intended to help achieve the objectives of this subtitle and the goals and policies of the Comprehensive Plan. (Ord. 1984; Ord. 1954; Ord. 1917; Ord. 1873)

20D.200.10-020      Eligible Purchasers.

Any person may purchase development rights regardless of whether the purchaser is an owner of lands designated as a receiving property. Development rights may be sold or transferred by any owner provided the sale complies with this division. (Ord. 1984; Ord. 1954; Ord. 1873)

20D.200.10-030      Sending Areas.

(1)      Sending Area Properties. The following properties shall be in transfer of development rights sending areas:

- (a)      Agriculture. Properties zoned Agriculture (A).
- (b)      Urban Recreation Zone. Properties zoned Urban Recreation (UR).
- (c)      Critical Habitats. Properties classified as critical habitats and critical wildlife habitats by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, and buffers for critical habitats or critical wildlife habitats required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers.

(2)      Eligible Sending Area Properties. Sending area properties shall be eligible to transfer development rights if all of the following criteria are met:

- (a)      For properties zoned Agriculture (A) or Urban Recreation (UR) and not classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers, the land shall be restricted to agricultural or recreation uses by a TDR conservation easement meeting the requirements of this division.

(b) For properties classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers:

(i) Properties classified as a critical habitat shall be restricted to use as a fish and wildlife habitat by a TDR conservation easement meeting the requirements of this division.

(ii) Properties classified as a buffer for a critical habitat shall be limited to uses, activities, development, and intensities allowed by RCDG 20D.140.10-110(3), Wildlife Habitats, by a TDR conservation easement meeting the requirements of this division.

(c) The land:

(i) Is undeveloped, vacant or in an agricultural or recreation use; or

(ii) Meets the requirements of RCDG 20D.200.10-130, TDRs for Partially Developed Wildlife Areas.

(d) The land's development rights or development capacity have not been sold, transferred, or limited by easements, deed restrictions, equitable servitudes, or similar measures to agriculture, recreation, open space uses or wildlife habitats or buffers where the development rights were granted for the habitat or buffer.

(e) For properties classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers, the property owner shall have the option of either applying for a reasonable use under RCDG 20D.140.10-350, Reasonable Use Provision, or requesting development rights under this division. No development rights shall be granted for any property for which a reasonable use has been granted under RCDG 20D.140.10-350, Reasonable Use Provision. Nothing in the chapter shall require that a reasonable use granted under RCDG 20D.140.10-350, Reasonable Use Provision, equal the economic value of the TDRs granted under this division.

(f) For properties classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers, no development rights shall be granted for any part of the property the Comprehensive Plan designates for use as a collector, arterial street, or highway. (Ord. 1984; Ord. 1954; Ord. 1917; Ord. 1873)

20D.200.10-040 Receiving Areas.

(1) Eligible Properties. The properties eligible to use development rights transferred from the sending areas shall be properties within the following zones: City Center (CC), Retail Commercial (RC), General Commercial (GC), Overlake Business and Advanced Technology (OV), Business Park (BP), Manufacturing Park (MP), and Industry (I).

(2) Restriction. No more than 35 percent of the development rights eligible for being transferred from the sending areas shall be transferred to the combined receiving areas in any one neighborhood. (Ord. 1984; Ord. 1954; Ord. 1873)

20D.200.10-050 Granting and Measuring Development Rights.

(1) Based on Gross Acreage. The total available development rights from a lot or property is based upon gross acreage and will not be reduced in measurement if wetlands or other environmentally sensitive areas are present that would otherwise limit development except as otherwise provided in this division.

(2) The land owner shall receive the number of development rights per gross acre specified by the development rights factor set for the property by subsection (4) of this section, Granting and Measuring Development Rights, for each gross acre of land that meets the requirements for

eligible sending area properties in RCDG 20D.200.10-030(2), Eligible Sending Area Properties, with any adjustments. For each fraction of a gross acre of land that meets the requirements for eligible sending area properties in RCDG 20D.200.10-030(2), Eligible Sending Area Properties, the owner shall receive a fraction of the development rights in the same proportion that the fraction of an acre of land makes up of a gross acre of land, with any adjustments.

(3) The following formula shall be used to calculate the number of development rights:

Gross acres (including a fraction of an acre) of land meeting the requirements of RCDG 20D.200.10- 030(2), Eligible Sending Area Properties	X	The
development rights factor set for the property by RCDG 20D.200.10- 050(4), Granting and Measuring Development Rights	X	Any
applicable adjustments, expressed as a percentage, provided for by RCDG 20D.200.10-130(4)(f), TDRs for Partially Developed Wildlife Areas, and any other part of this division	=	
The number of development rights the landowner shall receive		

(4) The development rights factor for each gross acre of land within each zone shall be as follows:

Zones (as shown by zone symbols) and Property Classification Per Gross Acre of Land	Development Rights Factor
A or UR zones that are not classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers.	1
A, UR, and RA-5 zones that are classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers.	1.1
R-1 and R-2 zones that are classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers.	1.7
R-3 zones that are classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers.	6.0
R-4 and R-5 zones that are classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers.	6.5
R-6 zones that are classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers.	7.5

R-8, R-12, R-18, R-20, R-30, and NC zones that are classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers. 8.0

GC zones that are classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers. 7.5

RC and OV zones that are classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers. 14.0

GDD and DD zones that are classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers. 9.5

CC-1, CC-2, CC-3, CC-4, CC-5, and CC-6 zones that are classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers. 11.7

BP zones that are classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers. 8.7

MP and I zones that are classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers. 5.7

(5) If a zone is not listed in the table in this section, the Administrator shall classify the zone in the table row that contains the zone most similar to it.

(6) Adjustments to Development Rights Factors.

(a) The development rights factors in this section were determined by analyzing median assessed land values. The factors were derived by determining the median assessed fair market value of land not including any improvements in the various zones in Redmond. The values analyzed were values per square foot of land. This value was converted to the value for an acre of land and divided by an estimated value of \$50,000 per TDR to determine the factor.

(b) Property owners eligible for development rights on properties classified as critical wildlife habitats by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or buffers for critical habitats under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers, may request that the Administrator increase the development rights factor for their properties. The property owner making the request shall provide evidence acceptable to the Administrator showing that the market value of the fee simple interest in the land, not including any improvements, has a value higher than the value represented by the applicable development rights factor. The request shall be in writing. The request shall be provided to the Administrator on or before the date a certificate of development rights is requested. If the City has issued a certificate of transferable development rights for the property without a request from the property owner, the request shall be provided to the Administrator before a TDR conservation easement is recorded for the sending property.

(c) If after reviewing the evidence provided by the property owner and any information to which the City has access the Administrator determines that the development rights factor should be increased to match the market value of the fee simple interest in the land, the Administrator shall use a development rights factor that matches the market value of the fee simple interest in

the land exclusive of any improvements on the land in calculating the development rights for the property. In making this determination, the Administrator shall consider the current and likely future market value of transferable development rights. (Ord. 1984; Ord. 1954; Ord. 1873)

20D.200.10-060 Procedure.

The process of acquiring, conveying and recording development rights includes:

- (1) The issuance of certificates of development rights with an assigned serial number (by the Administrator);
- (2) The approval (by the Administrator) and recording of a TDR conservation easement;
- (3) The recording of a deed transferring ownership of the development rights; and
- (4) The recording of an extinguishment document. (Ord. 1984; Ord. 1954; Ord. 1873)

20D.200.10-070 Certificate of Development Rights.

- (1) Certificate. The Administrator, upon the request of the sending area property owner, shall issue a certificate of development rights to the landowners for the eligible land in accordance with the formula in RCDG 20D.200.10-050, Granting and Measuring Development Rights.
- (2) Written Request. To receive a certificate of development rights, the landowner shall contact the Administrator with a written request for the Certificate. The property owner shall provide the City with a title report confirming ownership of the property prior to the issuance of the certificate.
- (3) Quantity. The issuance of the certificate of development rights shall establish the quantity of development rights for the property. The development rights quantity will be based upon the use of the land at the time the certificate is requested.
- (4) Sale. Prior to or concurrent with development rights being offered for sale, lands with transferable development rights shall have a certificate of development rights issued. Upon receipt of the certificate of development rights, the property owner may transfer the development rights to any person or legal entity. (Ord. 1984; Ord. 1954; Ord. 1873)

20D.200.10-080 TDR Conservation Easement.

- (1) When an agreement has been reached between the seller and buyer of the development rights, the seller shall inform the Administrator of the pending sale.
- (2) Prior to the transfer of the development rights, the seller shall record a TDR conservation easement on the property from which the development rights are being sold. The TDR conservation easement shall include a legal description of the property from which the development rights will be transferred, meet the requirements of this division, be approved by the Administrator and the City Attorney, and executed by the owners of the eligible sending area property. The approved TDR conservation easement shall be recorded in King County's real property records.
- (3) For properties zoned Agriculture (A) or Urban Recreation (UR) and not classified as a critical habitat or buffer for a critical habitat under Chapter 20D.140, Sensitive Areas, the TDR conservation easement shall limit use of the property to agricultural uses, agricultural residences, and those recreational uses allowed by the Agriculture or Urban Recreation zone.
- (4) For properties classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat required under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers, the TDR conservation easement shall be limited to the uses and activities set out in RCDG 20D.200.10-030(2)(b), Eligible Sending Area Properties.
- (5) After granting the TDR conservation easement to the City of Redmond, the development and use of the property on which the TDR conservation easement is recorded shall comply with the TDR conservation easement. (Ord. 1984; Ord. 1954; Ord. 1873)

20D.200.10-090 Deed of Transfer of Development Rights.

(1) The deed transferring development rights, as approved by the Administrator, shall be executed by the selling and purchasing parties and recorded with the King County Records and Elections Division. The purpose of the deed is to confirm that the development right has been purchased by a developer or investor. A copy of the recorded document shall be filed with the King County Assessors Office and the Redmond Administrator.

(2) The deed shall include the recording number(s) of the TDR conservation easement for the rights being transferred, and a legal description of the land from which development rights are granted.

(3) The deed may verify the transfer of the development rights to a receiving parcel in lieu of the requirement for an extinguishment document. (Ord. 1984; Ord. 1954; Ord. 1873)

20D.200.10-100 Extinguishment Document.

(1) The extinguishment document shall identify the development rights sending property (legal description and serial number) and the development rights receiving property, and how the development rights are applied.

(2) The extinguishment document may be combined with the deed of transfer if the receiving site and project are identified. (Ord. 1984; Ord. 1954; Ord. 1873)

20D.200.10-110 Partial Sale or Use of Development Rights.

(1) The sending area property owner can sell all, none, or part of the development rights.

(2) If the sale of development rights from the sending area property owner would entail less than an entire parcel, the following additional regulations shall apply:

(a) The portion of the lot involved in the proposed sale of development rights shall be legally described and must be shown on a map. The serial number assigned to the certificate of development rights shall reflect only the portion of the property where development rights have been sold.

(b) When a portion of the total available development rights are sold from a lot or property, the future sale of additional development rights from that property shall occur so that the land is contiguous, to the greatest extent possible, to the lands from which development rights were previously sold.

(c) If the land subject to the TDR conservation easement is subdivided, within the limitations of the zoning, any new parcel created shall continue to be subject to the TDR conservation easement and shall comply with this division. (Ord. 1984; Ord. 1954; Ord. 1873)

20D.200.10-120 Use of the Development Rights: Floor Area and Regulatory Flexibility.

(1) Within the designated receiving zones, each development right may be used as a right for any one of the following, subject to the limitations of this division:

(a) To authorize an additional 8,712 square feet of building area;

(b) To a substitute a requirement to provide 8,712 square feet of public or private park land;

(c) To increase the maximum impervious surface limitations or maximum structure coverage by 8,712 square feet provided that the total increase shall not exceed 10 percent of the site;

(d) To increase the height limitation up to 10 feet across each 8,712 feet increment of gross floor area (gfa). In no case can total building height be greater than 10 feet above the height allowed in the underlying zones; or

(e) To add up to five additional parking stalls per 8,712 square feet of TDR purchased in the sending area.

A fraction of a development right shall be entitled to the equivalent fraction of any of the above.

(2) The Administrator shall approve the application for transfer of development rights if the Administrator finds the request meets all of the following criteria:

(a) Does not exceed the limitations on density or intensity allowed by the zone through a transfer of development rights. An increase above the intensity or density allowed without transfers of development rights shall only be gained through the use of transfers of development rights (TDR).

(b) The proposal complies with all applicable development regulations, unless that regulation is modified by the transfer of development rights.

(c) It is in accordance with the provisions of this division.

(d) The final development intensity achieved for any property located in a TDR receiving zone must be determined by review and approval of the Administrator as a part of the development process.

(3) A site plan application or final plat for a subdivision using transferred development rights shall contain a statement describing the development proposed, the zoning classification of the property, the amount and serial number of development rights used, and a notation of the recording number of the TDR conservation easement recorded with King County. (Ord. 1984; Ord. 1954; Ord. 1873)

20D.200.10-130 TDRs for Partially Developed Wildlife Areas.

(1) This section shall only apply to properties classified as a critical habitat by RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or a buffer for a critical habitat under RCDG 20D.140.10-110(3), Wildlife Habitat Area Buffers.

(2) A qualifying property owner may be granted development rights under either or both of subsections (3) and (4) of this section.

(3) Habitat or Buffer Is Undeveloped or Is Restored.

(a) The applicant shall be granted development rights for the part of the property that is undeveloped land when all of the following conditions are met:

(i) The existing uses and activities taking place on the property can continue and be maintained without harming the fish or wildlife protected under RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or reducing the size or value of the existing wildlife habitat or buffer.

(ii) Absent the classification of the property as a critical habitat or a buffer for a critical habitat, additional housing units or additional building space could have been constructed on the undeveloped land.

(iii) The TDR conservation easement shall limit the use of the undeveloped land as provided in RCDG 20D.200.10-030, Sending Areas.

(b) Where an applicant restores some or all of the property with native vegetation that will provide habitat for the fish or wildlife protected under RCDG 20D.140.10-070(3), Wildlife Habitat Classification, the Administrator shall grant development rights for the portion of the property that the Administrator determines has habitat value generally equivalent to natural habitat and that complies with subsection (3)(a) of this section except for the requirement that the land be undeveloped.

(4) The Habitat or Buffer Is Developed, but Underused. Where some or all of the habitat or buffer area on the property is not undeveloped land, the applicant shall be granted development rights land as provided in subsection (4)(f) of this section for the part of the property that is developed land when all of the following requirements are met:

- (a) The existing uses and activities taking place on the property can continue and be maintained without harming the fish or wildlife protected under RCDG 20D.140.10-070(3), Wildlife Habitat Classification, or reducing the size or value of the existing wildlife habitat or buffer.
- (b) The intensity or density of the entire developed portion of the property or adjoining property within a common ownership is less than 50 percent of the allowed intensity or density. This includes parts of the property within and outside the habitats and buffers.
- (c) Absent the classification of the property as a critical habitat or buffer for a critical habitat, additional housing units or additional building space could have been constructed on the land classified as a habitat or buffer.
- (d) The TDR conservation easement shall limit the use of any vacant land as provided in RCDG 20D.200.10-030, Sending Areas. A TDR conservation easement shall also limit the use of the developed land designated as wildlife habitats or buffers to the existing uses, density, and intensity.
- (e) The uses, activities, structures, parking, exterior storage, or substantially non-native landscaping were legally established and maintained.
- (f) If the requirements of this subsection are met, the Administrator shall approve the application for development rights for the part of the property that is developed land. The amount of development rights shall be determined using the formula in RCDG 20D.200.10-050, Granting and Measuring Development Rights, with the following adjustment based on the density or intensity of the existing uses as provided in the following table.

Existing Development Density or Intensity (Entire Property or Properties in a Common Ownership)		Percent of Development Rights That Shall Be Granted (Adjustment Percentage)
1 to 15 percent of allowed density or intensity		50 percent of the development rights that would otherwise be granted under RCDG 20D.200.10-050, Granting and Measuring Development Rights
16 to 30 percent of allowed density or intensity		40 percent of the development rights that would otherwise be granted under RCDG 20D.200.10-050, Granting and Measuring Development Rights
31 to 45 percent of allowed density or intensity		35 percent of the development rights that would otherwise be granted under RCDG 20D.200.10-050, Granting and Measuring Development Rights
46 to 49 percent of the allowed density or intensity		30 percent of the development rights that would otherwise be granted under RCDG 20D.200.10-050, Granting and Measuring Development Rights
50 percent or more of the allowed density or intensity		0 percent of the development rights that would otherwise be granted under RCDG 20D.200.10-050, Granting and Measuring Development Rights

- (5) The Administrator may condition compliance with this section through the use of easements or other means.
- (6) For the purpose of this section the following terms shall mean the following:

(a) “Undeveloped land” shall mean land not covered with structures (including storm water facilities), parking, exterior storage, lawns, and other predominately non-native landscaping or used for a use or activity other than wildlife habitat or a wildlife habitat buffer. Any uses, activities or structures allowed by RCDG 20D.140.10-110(3), Wildlife Habitats, shall be considered wildlife buffer uses when undertaken within a buffer in compliance with RCDG 20D.140.10-110(3), Wildlife Habitats.

(b) “Developed land” shall mean land covered with structures (including storm water facilities), parking, exterior storage, lawns, and other predominately non-native landscaping or used for a use or activity other than wildlife habitat or a wildlife habitat buffer. Any uses, activities, or structures allowed by RCDG 20D.140.10-110(3), Wildlife Habitats, shall be considered wildlife buffer uses and not developed land when undertaken within a buffer in compliance with RCDG 20D.140.10-110(3), Wildlife Habitats. (Ord. 1984)